

## **REMARKS**

Claims 1-117 and 119 are all the claims pending in the application, claims 1, 2, 4, 46-52, 62, 64, 84-86, 91-93, 103, 105, and 112 having been elected for examination in response to a restriction requirement, and claims 3, 5-45, 53-61, 63, 65-83, 87-90, 94-102, 104, 106-111, and 113-118 having been withdrawn from consideration. Claim 118 has been cancelled without prejudice or disclaimer in the present amendment, and claim 119 has been added to claim disclosed embodiments more completely. No new matter has been added. Claims 1, 112, and 119 are the only independent claims.

The claims remain rejected as set out in the last Office Action. In particular, claims 1, 2, 4, 46, 47, and 112 stand rejected under 35 U.S.C. §103(a) as being anticipated by Williams (5,691,490) in view of Aitken et al. (4,658,690). Claims 48-52, 62, 64, 84-86, 91-93, 103, and 105 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams and Aiken, and further in view of Tunura (5,585,588). Claims 84-86, 91-93, 103, and 105 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams, Aitken, Tunura and Norton (5,994,633). Applicant respectfully traverses these rejections, and requests reconsideration and allowance of the pending claims in view of the following arguments.

First of all, Applicant notes with appreciation the Examiner's efforts as set out on pages 6-8 of the Office Action which addresses Applicant's comments provided in the last response. Although Applicant respectfully disagrees with the Examiner's position, the Examiner's efforts to explain his position is helpful to Applicant's understanding of the rejection to these claims.

Turning now to the claim rejections, Applicant stands firm on the position set forth in the last response and offers the following brief comments.

The Examiner first contends that keyboard 30 may be located downstream from pickups 28, and this therefore generates the required "electrical signal." Even if keyboard 30 could be located as alleged by the Examiner, the fact remains that Williams provides no such teachings.

The Examiner further posits that a provided portion of Figure 1 of Williams teaches electronic controls. One could guess that these may be electronic controls, but they could also be a decorative structure or appliqué such as a decal (for example as on a toy keyboard) or mechanical controls (as found on an acoustic harmonium or acoustic clavichord).

Williams does not state what the identified devices are, and it is therefore improper for the Examiner to allege that such a teaching exists. Williams is silent as to whether the keyboard is electronic or acoustic.

The Examiner also provided comments that keyboard 30 must be electric and provide an electrical signal since an acoustic keyboard would not be as useful as an electric keyboard. A reference may be used in a rejection for all that it teaches, and all that it does not teach. Here, Williams does not state that keyboard 30 is an electrical keyboard. The Examiner is reading in a feature that is simply not described in Williams.

Regarding Aiken, the Examiner maintains that strings 50 (and keyboard 70) are readily positionable relative to strings 40. A further comment was that a musician could move strings 50 (or keyboard 70) relative to strings 40 to achieve some desired positioning of these components. However, claim 1 does not recite modules that are simply positionable relative to each other. To the contrary, claim 1 recites “each musical module of said plurality of individual musical modules is readily positionable within any of a plurality of mounting locations of said mounting frame.”

Using a different approach, Applicant assumes *arguendo* that strings 50, keyboard 70, and strings 40 are “musical modules” and that body 20 discloses a “mounting frame” as recited in claim 1. Even if correct, Fig. 4 illustrates strings 50 and keys 70 in a fixed relationship with body 20 (mounting frame). Because strings 50 and keys 70 (musical modules) are fixed to body 20 (mounting frame), such modules are not readily positionable within any of a plurality of mounting locations of body 20 (mounting frame).

It is irrelevant that body 20 can move relative to strings 40. The mere movement of body 20 and strings 40 does not somehow create a plurality of mounting locations of body 20 (mounting frame). Even if a musician swung instrument 10 wildly above his head in a moment of musical delight, such action will simply cause body 20 to pivot relative to strings 40. However, the fact remains that despite the flailing actions of the musician, strings 50 and keys 70 (musical modules) will remain in one location on body 20. As such, string 50 and keys 70 (musical modules) have at best one mounting location on body 20. Consequently, Aitken fails to teach “each musical module of said plurality of individual musical modules is readily positionable within any of a plurality of mounting locations of said mounting frame,” as required by claim 1.

In summary, Applicant's position remains that both Williams and Aitken do not teach at least one feature recited in claim 1. Therefore, even if one skilled in the art were to combine the teachings of Williams and Aitken in the manner asserted, claim 1 would be patentable since not all of the recited claim elements are taught or reasonably suggested. Independent claim 112 includes language similar to that of claim 1, and thus, is believed to be patentable for reasons similar to those discussed with regard to claim 1. The rejected dependent claims are believed to be patentable at least by virtue of their respective dependence on the patentable independent claims 1 and 112.

Applicant is confident in the position of record with regard to the patentability of the pending claims of the present application. However, to expedite prosecution and to seek early allowance of the claims, Applicant submits the forgoing claim amendments to claims 1 and 112.

Newly submitted claim 119 includes features that are similar to those recited in claims 1 and 112, and therefore properly belong to the elected group of claims selected for examination. In addition, claim 119 is believed patentable since it includes a number of features that are not found in the prior art of record. For instance Aitken does not teach "wherein each musical module of said plurality of physically distinct musical modules is readily positionable to physically couple with any of the plurality of physically distinct mounting locations of said mounting frame."

## CONCLUSION

In view of the above, Applicants submits that the currently pending claims are in condition for allowance. Early issuance of a Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to deposit account No. 06-1135.

**Address all correspondence to:**  
FITCH, EVEN, TABIN & FLANNERY  
120 So. LaSalle Street, Ste. 1600  
Chicago, IL 60603

**Direct telephone inquiries to:**  
Jeffrey J. Lotspeich  
(858) 587-7652  
San Diego, California Office of  
FITCH, EVEN, TABIN & FLANNERY

Respectfully submitted,  
FITCH, EVEN, TABIN & FLANNERY  
/Jeffrey J. Lotspeich/

---

Jeffrey J. Lotspeich  
Registration No. 45,737  
Attorney for Applicant

Date: October 23, 2008